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CONTRIBUTION

From:	General Secretariat of the Council
To:	Working Party on the Environment
Subject:	ETS Review: Compiled comments from delegations

Delegations will find attached, following the consultation exercise launched after the WPE meeting on 22 July 2026, comments and questions from BE and PT.

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CAP:

- It is not clear from the impact assessment why a variation to the CAP4 "accelerated 9085" scenario was chosen as a basis for the proposed LRF of -3,7% in 2031-2035 and -1,7% in 2036-2040. Can the COM clarify based on which criteria CAP4 was chosen as the preferred scenario other than the fact that it has the lowest emissions budget of the different scenarios that were modelled? How was this environmental benefit balanced with economic and competitiveness factors?
- Could the commission provide a breakdown of the ETS cap in 2040 for fixed installations, maritime and aviation, both in case of an LRF of 1.7% and 2.7% in the period 2036-2040? How does the cap compare to the base year emissions in 2005?
- How does the proposed ETS cap relate to the total emissions budget under the 2040 target for all sectors? Can the Commission give a breakdown of the envisaged emissions in 2040 from the different sectors (ETS, ESR, LULUCF), including the contributions from removals and international credits, as well as the base year emissions in 1990?

International credits:

- The proposal foresees a reversion to an LRF of 2.7% if insufficient high-quality international credits are available for use within the EU ETS. Could the Commission clarify how this safeguard relates to the availability of international credits outside the EU ETS?

  More specifically, does the fallback LRF of 2.7% reflect a pathway delivering 90% domestic emissions reductions economy-wide, or does it assume a specific contribution from the EU ETS irrespective of the continued availability of international credits for non-ETS sectors?

  Furthermore, has the Commission assessed intermediate scenarios in which international credits remain available for non-ETS sectors, or scenarios in which a lower volume of international credits is used across the economy? If so, what implications would such scenarios have for the emissions reduction contribution expected from the EU ETS and for the corresponding LRF trajectory?
- 260Mt ETS allowances are assigned to the purchase of international credits. How does this number relate to 2% of the EU's 1990 emissions?
- Does the Commission have any estimates of the price of high quality international credits?
- The Commission intends to start purchasing international credits before 2033. In case the report by 31 January 2033 concludes that not enough high integrity, cost-effective international credits are available, and the LRF is increased to 2.7% in 2036-2040, what happens to the international credits bought by the Facility in the meantime?

Carbon removals:

- Does the Commission intend to purchase removal units in the same year as the auctioning of the corresponding ETS allowances, or could there be a time lag between the auctioning and the purchasing of removals? Could the Commission clarify the timeline of the auctioning of these allowances? Has the Commission assessed how the timing and volume of the auctioning of these additional allowances may impact the TNAC and functioning of the MSR?
- What amount of domestic permanent carbon removals does the Commission foresee in the year 2040?
- The Commission estimates that revenues from 250 Mt +10 Mt of ETS allowances would suffice for purchasing 250 Mt of high-quality removals. In case this budget does not suffice to purchase the required amount of removals, how will the corresponding emissions be compensated?
- When purchasing permanent carbon removal units, will the Commission take into account the level of financial support that may have already been granted to the project under the Innovation Fund, Industrial Decarbonisation Bank, or Modernisation Fund?

Carbon leakage:

- Practical questions on the Invest in EU decarbonisation plan:
    - What are the legal implications of retroactively recovering free allocation after an installation has relocated? How will relocation of installations to outside of the EU be monitored (compared to closures, bankruptcies, relocation within the EU)?
    - How will the Commission ensure a level playing field across Member States of the Invest in EU plan?
    - Claw-back mechanism: is the return of allowances proportional to the production capacity relocated outside of the Union or does it apply to all free allocation, even if the operator only partly relocates its activities? How is the relocation or transfer of activities defined? Will trade flows be considered?
    - Could the Commission give an overview of the installations per Member State that would currently benefit from the exemptions for free allocation conditionality (i.e. 10% best performers, low- and zero-carbon installations, small installations)?
- The proposal extends the validity of the current carbon leakage list until 2040. Could the Commission explain why no broader review of the carbon leakage list was included in the impact assessment? E.g. Has the Commission assessed the option of a carbon leakage list with different categories, instead of the current binary list, in order to make sure that sufficient free allocation is available for those sectors most at risk of carbon leakage, while avoiding the cross-sectoral correction factor?
- The proposal reintroduces 15% of free allocation for CBAM sectors from 2028 onwards. Could the Commission explain how the level of 15% was determined and whether alternative phase-out trajectories or percentages were assessed? In addition, what evidence or modelling supports the conclusion that retaining 15% free allocation effectively addresses export-related carbon leakage risks, and how does the Commission assess its impact on the international competitiveness of EU exports in CBAM sectors?

- Post 2030-benchmarks:
    - The proposal introduces an empowerment to establish sector-specific heat and fuel benchmarks through delegated acts. Could the Commission clarify whether alternative methodologies for calculating fallback benchmarks were assessed as part of the impact assessment or will be assessed when developing the delegated act for heat and fuel benchmarks? We could not identify an assessment of benchmark methodologies. Why was a broader review of the fallback benchmark methodology not included as part of the ETS review?
    - The proposal maintains the existing methodology for product benchmarks while introducing the possibility of sector-specific heat and fuel benchmarks. Could the Commission explain why the impact assessment did not examine alternative methodologies for calculating product benchmarks? Was consideration given to whether the current methodology adequately reflects the performance of representative best-performing installations?
- Separate benchmark proposal:
    - The proposal states that the maximum annual update rate applicable to the heat and fuel benchmarks should be adjusted by using the totality of the allowances available for free allocation for the period 2026-2030, as determined in the CSCF Decision, in order to maximize free allocation under the fallback benchmarks without triggering the cross-sectoral correction factor.

      During the 2026-2030 allocation period, corrections to baseline data reports may nevertheless become necessary after the adoption of the National Allocation Table (NAT 0 Decision). In certain cases, such corrections could lead to a higher free allocation entitlement for an installation for the period 2026-2030. For example, electricity consumed for eligible heat production may have been omitted from the baseline data report and identified only at a later stage.

      Could the Commission clarify how such corrections would be accommodated in practice? In particular, where a correction to a baseline data report is approved and results in an increase in free allocation that is subsequently reflected in an NIMs correction submission, would the installation concerned still be able to receive the corresponding additional allowances for 2026-2030, considering that the proposal foresees the use of all allowances available for free allocation for 2026-2030 to determine the revised fallback benchmark values?

      If so, from which source of allowances would these additional allocations be funded?

    - The proposal refers to approximately 80 million allowances available from the free allocation buffer. Could the Commission provide an overview of all allowances available during the 2026-2030 period, including unused allowances resulting from unmet conditionalities and allowances remaining in the New Entrants' Reserve (NER)?

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- Indirect Cost Compensation:
    - Could the Commission clarify why the ICC2 option in the Impact Assessment was designed around an EU-level fund corresponding to 5% of auctioned allowances? The impact assessment does not appear to discuss alternative funding percentages.
      Furthermore, while the impact assessment assesses a partially harmonised system, it does not appear to assess a fully harmonised EU-wide indirect carbon leakage compensation mechanism. Could the Commission explain why such an option was not considered and whether its potential benefits and drawbacks were evaluated in any form?
    - The impact assessment notes that ICC2 could deliver slightly greater environmental benefits because some installations receiving support from the EU fund would otherwise not be compensated under ICC1. At the same time, the preferred option (ICC1) is justified on the basis that Member States retain greater flexibility to mobilise financial resources for indirect carbon leakage protection. Could the Commission clarify whether any assessment was made of the effectiveness of support delivery under both options, in particular whether a more harmonised approach would allow support to reach a broader set of beneficiaries and thereby generate greater environmental benefits per euro spent?

Funding – general questions:

- How will the Commission ensure alignment of the Innovation Fund and of the Industrial Decarbonisation Bank with the requirements of the Net-Zero Industry Act and the Industrial Accelerator Act, as referred to in recital 61?

- Which guidance will be used to apply the DNSH principle to the IDB, the Innovation Fund and the Modernisation Fund?

- Although this is a different proposal covering different years (2026-2027), could the ETS review have any impact on the Commission proposal for the Temporary Decarbonisation Fund also taking into account the state of play of the discussion on the later in the Council ?

- For the exemption foreseen (art 10a(3c)) from free allocation conditionality where a project is selected for the award of support under the IDB or the Innovation Fund, what happens to the installation if the project does not obtain the financial close and is not funded in the end?

National revenues (art. 10.3):

- Could the European Commission provide a definition of "vulnerable third countries" (point (i) of the second list for the use of national revenues)?

- Why does the Commission propose to delete the reference to "the need to continue scaling up international climate finance" from the current article 10(3) of the ETS Directive?

- The current ETS directive allows Member States to use ETS revenues to address social impacts in lower- and middle-income households and to finance national climate dividend schemes (art. 10(3)(ha) and 10(3)(hb)). Can the Commission elaborate why these elements have not been retained in the proposed art. 10(3)?

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Industrial Decarbonisation Bank:

- Why does the Impact Assessment on the IDB compare (1) allocation mechanisms, (2) types of support, and (3) geographical balance criteria as separate design elements, while the policy options themselves do not differentiate in combining these criteria?
    - For example, under Policy Option 2 for the IDB, why is the third criterion framed as a choice between national allocations and EU-level competition, rather than between pure EU-level competition and EU-level competition combined with soft geographical balance measures? Such an option could potentially improve the efficiency (the sole lagging assessment criterium between effectiveness and coherence) of the instrument while preserving some soft measures of geographical balance, and may therefore represent a preferable alternative alongside the other design choices relating to administrative schemes and fixed premiums.
    - This is particularly relevant given that this particular combination has been the approach used in both the Hydrogen Bank and the Heat Auction. The Impact Assessment does not appear to explain why this approach would need to be modified for the IDB.

- Can the Commission elaborate on the sources of funding used for the EU Investment Booster, since a joint reading of the benchmark 2026-2030 proposal and the ETS Revision indicates that the free allocation buffer for 2026-2030 is used for adopting new fallback benchmarks, the EU Investment Booster and the Innovation Fund top-up of 50 million.
- Could the Commission provide figures of the number of allowances that are currently left in the New Entrants Reserve (art. 10a(7))? Has the Commission assessed the impact on cumulative emissions in phase IV of the EU ETS when allowances from the New Entrants Reserve are auctioned to finance the Investment Booster? Has the Commission considered other funding sources for the Investment Booster?
- Could the Commission clarify the timeline for support under the Investment Booster? While allowances appear to be allocated from 2028 onwards, it seems they will be received periodically after the start of operations of the project. When will project beneficiaries effectively receive these allowances? How will the proposed mechanism ensure that developers have sufficient upfront certainty to make final investment decisions?
- Could the European Commission explain how synergies with the ECF and the competitiveness seals will allow to reach a volume of 100 bn € for the IDB?
- Could the European Commission give more information on how it plans to ensure the synergies between the IDB and the ECF as referred in paragraph 5 of article 10cc?
- Will the IDB sit outside the MFF but be financed through the EU budget, as is the case for the Innovation Fund at the moment?

Innovation Fund

- Could the European Commission explain the reasons why current IF resources are expected to be fully committed by 2028, resulting in a temporary 'void' (2028–2030) (impact assessment p155)?
- The current ETS Directive requires the Innovation Fund to contribute to zero pollution and circularity objectives (art. 10a.8). Could the Commission elaborate why this reference has been omitted in the proposed article 10cb? Will the Commission still ensure the consideration of zero pollution objectives in the implementation of the Innovation Fund?
- Why does the Commission propose removing the decarbonisation of the rail transport sector from eligibility under the Innovation Fund? Do we understand correctly that road transport remains under the Innovation Fund scope under the Commission proposal?
- Could the European Commission give more information about the provisions on governance and selection criteria which it intends to adopt in the delegated acts referred in paragraph 9 of the article 10cb? In particular, can the Commission give more information about the foreseen governance mechanisms with the ECF and the Industrial Decarbonisation Bank ?
- Could the European Commission give more information on how it plans to ensure the synergies between the IF and the ECF as evoked in recital 64 of the Commission proposal and article 10cb(6)?

Modernisation fund :

- Could the Commission elaborate on why the following elements of art. 10d of the current ETS Directive have not been retained in the proposed art. 10d:
    - renewable hydrogen Art 10d(2)(a)
    - dialogue with civil society and social partners Art 10d(2)(g)
- Why does the Commission propose to extend the scope of Art 10d(2) to (h) the production of affordable low-carbon and bio-based fertilisers?

CCUS:

- For the transport of CO2, the following clarification is introduced: "The competent authority should be the one of the Member State where the CO2 is collected, which will be where it is captured. The competent authority should be responsible for that CO2 transport until the CO2 is collected by an operator in another Member State. Member States where the CO2 only transits should not be involved in the permitting of the CO2 transport activity." This approach raises a few questions:
    - Recital 28 states that "Member States where the CO_2 only transits should not be involved in the permitting of the CO2 transport activity". However, recital 28 also states that "the competent authority should be responsible for that CO_2 transport until the CO_2 is collected by an operator in another Member State". The precise meaning of these provisions seems unclear. Will a second competent authority become responsible for

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granting the GHG permit if additional CO_2 is injected within its territory on an cross-border CO_2 pipeline which aggregated CO2-volumes captured in multiple Member States? In that case, would there be two competent authorities for the same CO_2 transport infrastructure? Do the scopes of the respective GHG permits overlap?

- Article 6a does not determine how to deal with the situation, where multiple competent authorities co-exist within one Member State. Is this correct? Could article 6a specify that is also applies to regional CA to ensure that the proposed approach unequivocally also applies to the specific situation in some member states?

- The proposal places the ETS compliance obligation for e-fuels containing captured CO_2 at the level of the fuel distributor. Could the Commission clarify the implications of this approach for fuel distributors?

Waste incineration:

- In recital (71) the following is mentioned: "The carbon price signal and circular economy policies are mutually reinforcing." Is our understanding correct that the inclusion of municipal waste incineration in the EU ETS will not prevent Member States from maintaining existing national policy instruments, such as incineration taxes or fees, alongside the ETS?

- Recital (70) mentions the following: "(70) … The carbon price signal complements circular economy policies by financially incentivising and supporting the business case for carbon capture as a main decarbonisation pathway for the sector towards the 2050 economy-wide climate neutrality objective, reducing fossil emissions from incineration while **fostering permanent carbon removals from biogenic emissions**, supporting economy-wide decarbonisation."
  Has the Commission assessed the potential impact of incentivizing permanent carbon removals from biogenic emissions on the objectives of the waste framework directive? In particular, has it been assessed whether the financial incentives associated with carbon removal certificates may incentivize biogenic waste incineration and affect efforts related to the separate collection and treatment of organic waste?
- On p. 87 of part 4 of the impact assessment the following is mentioned: "a predictable timescale and financial support to plan and invest in carbon capture technology, with other abatement options offering pathways to reduce the carbon cost in the shorter-term until the implementation of carbon capture over time. Financial support and a transition period could complement the economic incentive of the carbon price. *Financial support is currently already available under the Innovation Fund and the Modernisation Fund."*

  Are these funds accessible for sectors not (yet) (fully) covered by ETS? I.e. can MWI access these funds before 2031 or 2035?

Scope:

- The ETS Directive review foresees that installations with a lowered total rated thermal input than 20MW can remain under the EU ETS until the end of the two following five-year periods. Why is a similar solution not proposed for installations receiving free allocation based on historical emissions that have invested in decarbonisation technologies?

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Aviation:

- Given that the current 'Stop the Clock' derogation, which limits the EU ETS to intra-European flights, expires at the end of 2026, and that the ongoing review of the ETS Directive may not be completed before then, how does the Commission intend to ensure legal and regulatory certainty for airlines beyond 2026, considering the sector's need for long-term operational, commercial and investment planning?
- CORSIA:
    - Could the Commission share the Ricardo analysis on CORSIA ?
    - Does the Commission intend to address already existing asymmetries, such as the unilateral exclusion of intra-EU international flights from the scope of CORSIA ?
    - As a possible weakening or even the end of CORSIA after 2035 would have implications not only for aviation but also for other international transport sector, could the Commission outline the actions being considered to strengthen and preserve CORSIA, both in the short term and beyond 2035?
- Could the Commission provide further clarification on how more emissions from private and business jets will be included under the ETS scope, and on the practical implications arising from that connection?
- EU neighbourhood:
    - Regarding the 5,000 km threshold, how will this be calculated in practice? Taking Accra as an example, its distance is only marginally above the 5,000 km limit. How will such borderline cases be dealt with? Would this mean that airports within the same country could be subject to different regimes, effectively creating two management systems? And what would be the implications for bilateral arrangements and reporting obligations?
    - Could the Commission explain how the proposed geographic threshold takes into account the risk of hub leakage? In particular, what assessment has been made of the potential competitive distortions between hubs located close to the EU, such as Istanbul, which would be significantly less affected, hubs that remain within the 5,000 km threshold, such as Dubai, and hubs located beyond that threshold, which would not be affected at all?
    - What discussions have been, or will be, held with neighboring states within this radius, regarding ETS and aviation, particularly in the context of existing multilateral agreements?

Maritime:

- Articles 3gaa(1) and 3gaa(4), could the Commission clarify how the 110 million allowances reserved for the SMAP mechanism will be sourced and allocated? In particular, will these allowances come from within the existing ETS cap and auction volumes, or from another source? How does the Commission foresee Member States coordinating the reservation and distribution of these allowances, and according to which allocation criteria?

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- Article 3gg (1) Review): Does the soft wording in the review clause ('Where appropriate, the Commission may accompany the report referred to in the second subparagraph of this paragraph with a legislative proposal to amend this Directive...') imply there is a possibility ETS will not be reviewed when IMO adopts its own market-based measure? How can double payment be avoided without making changes to our regional system?

- Article 2(1aa) and 2(1d) of Regulation (EU) 2015/757 to additional ship categories between 400 and 5,000 GT: Has the Commission considered introducing simplified monitoring and reporting requirements for the smallest shipping companies, given that many operators in this segment have limited administrative resources?

- Has the Commission assessed the possibility of a reverse modal shift towards road transport following the inclusion of vessels between 400 and 5,000 GT in the MRV/ETS scope? Similar effects are already being observed on certain short-sea routes competing directly with road transport.

- The proposal states that the same entity should be responsible for compliance of a ship under EU ETS/MRV and for FuelEU. However, for some vessels, the entity currently responsible under FuelEU Maritime differs from the entity responsible under EU ETS. How does the Commission foresee resolving these situations, and when would any change of the responsible company take effect?

- Article 25b (ETS as a service): How should this new article be seen in relation to the developments at IMO? Could this article be seen as the EU giving up on IMO GHG reduction measures by trying to impose a global ETS for maritime?

Technical questions

Waste & CCU

A. ETS Revision Proposal

- p.52, recital (76):

"(76) Taking into account the special characteristics and permanent constraints of the outermost regions of the Union as recognised in Article 349 of the Treaty on the Functioning of the European Union (TFEU), and given their constraints in deploying a comprehensive waste-management ecosystem at scale and distance from recycling markets, an option is provided for Member States to ***temporarily*** *exempt installations located in the outermost regions from the surrender obligation for waste incineration and co-incineration pursuant to Directive 2003/87/EC."*

Question: Is this timeframe also until the end of 2035, or not yet defined?

- Annex I, (1)(c)(viii), p.3, left column:

*"**(2) the establishment of landfill register(s) pursuant to Article [X] of Regulation (EU) […./..] [Circular Economy Act to ensure environmental integrity and avoid circumvention; and**"*

Question: Does this mean the Circular Economy Act will propose the establishment of landfill register(s)? Will the Circular Economy Act also propose other changes to the landfill directive?

- Annex I, (1)(c)(viii), p.3, right column: "**carbon dioxide**"

Question: Could this be "methane" instead of carbon dioxide as the impact assessment mainly addresses methane emissions from landfills?

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B. Impact Assessment, Part 4/5

- p. 73:

"1.2 Scope of regulated activities and emissions (...)

The main additional regulated activities and emissions considered for inclusion under the scope of the EU ETS are those identified under measures ***W1 (municipal waste incineration), W2 (municipal and hazardous waste incineration) and W3 (municipal and hazardous waste incineration and landfilling of non-hazardous waste)."***

Question: Was a scenario combining municipal waste incineration and landfilling considered in the impact assessment? Given that landfill emissions largely originate from the landfilling of organic waste, did the Commission assess whether a combined approach covering both incineration and landfilling, alongside measures such as separate collection and treatment of biowaste (e.g. anaerobic digestion), could contribute more effectively to the objectives of the proposal?

In addition, did the assessment evaluate whether the inclusion of hazardous waste incineration could result in hazardous waste being diverted away from more appropriate treatment methods?

- p. 79:

"1.2.4. Discarded measures

Chemical recycling (W4): (...) ***It covers a range of methods and technologies, including pyrolysis, gasification, depolymerization and solvolysis****."*

Question: From an emissions perspective, did the assessment distinguish between the different chemical recycling technologies? Certain technologies convert part of the material into non-condensable gases that may subsequently be incinerated, whereas technologies such as solvolysis do not generate emissions. In this context, how does the Commission envisage distinguishing between technologies that generate emissions and those that do not?

- p. 85:

"1.3.2. Emission abatement at installation level (...)

Waste incineration

Mixed waste sorting (MWS) to reduce emissions before incineration: Sorting allows to reduce CO2 emissions and improve overall energy efficiency of waste incineration by extracting high-carbon-content and recyclable materials, ***preventing their incineration****."*

Question: Did the assessment consider the potential impact on sorting-at-source policies? It appears that the proposed approach could undermine incentives for sorting at source, unless it is applied selectively to waste streams that have not been properly sorted. In such a scenario, the additional cost could act as an incentive for proper sorting at source, rather than increasing the price across the board to recover the sorting cost.

- p. 87:

*"**the integration of carbon removals under the EU ETS, allowing to generate revenue from removals from the biogenic fraction of MWI emissions, supporting the business case for carbon capture implementation."***

Question: Has the Commission looked into the possibility of perverse effects on the separate collection of biogenic waste (in favor of composting of AD) as schemes such as removal certificates may incentivise biowaste incineration? Has been assessed how such effects could be mitigated?

- p. 98, first paragraph:

"*The risk of emissions leakage due to potential waste diversion to landfilling would be limited by the design of W1 as emissions from organic waste – the main source of methane emissions from landfills – **would be zero-rated, substantially restricting incentives to divert organic waste to landfills in avoidance of the carbon cost**, where they would be responsible for increased methane emissions. Conversely, the environmental risk of (fossil) waste diversion to landfills is further assessed in section 1.7.1.2.1."*

Question: Would this not only be the case if the operator of the incineration facility could recover the carbon cost only for the fossil-based waste? Given that fossil-based waste is mixed with organic waste in residual waste, would the incinerator not simply increase the gate fee for all residual waste? This would, in effect, also increase the cost of incinerating organic waste, potentially making incineration more expensive than landfilling?

- p. 109, second paragraph:

"*At the same time, including the waste management sector in the EU ETS offers significant opportunities to further incentivise circularity and recycling, both minimising environmental impacts from natural resource use and financial costs for waste management for local authorities. While the waste recycling rate in Europe has steadily increased due to EU binding recycling targets, separate collection of waste was progressing slower than required and most waste was still disposed of through incineration or landfill operations in 2022, carrying **substantial financial burdens on local authorities in the form of gate fees and additional taxation**, and consequently on taxpayers. Including waste management into the EU ETS would contribute to incentivise ambitious waste management policies to increase recycling and discourage landfills and incineration."*

Comment: This is mostly in case of private incineration installations. In Flanders, many installations are public, the investment cost having been written off and now generating revenue through the sale of the recovered energy.

- p. 131-132, point ***2.2.2. Identification and description of accounting approaches***

Question: Is this scenario not presented in an overly simplified manner?

For example, in the case of plastics, the material may be used as insulation and remain in a building for several decades. In the event of demolition, materials such as PUR foam could potentially be processed and converted back into building-block materials, such as polyols.

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Similarly, could it be considered plausible that, in the future, plastic packaging produced using CCU technology could be collected, sorted, and recycled through mechanical, physical, or chemical processes?

Both examples illustrate potential scenarios in which the material would not necessarily need to be incinerated and, consequently, would not be released as emissions.

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Maritime

- Article 3 (z (ii)) (offshore port of call): How will a port of call be triggered for ships performing or supporting offshore operations in connection with an offshore worksite when no cargo or passenger movements are done within an EU port? Is our understanding correct that whenever entering an offshore worksite these ships automatically trigger a port of call regardless of cargo/passenger/crew movements? In addition, could the Commission clarify the reference to container ships in this provision, and whether it has considered that cargo carried and transport work are not meaningful activity indicators for many offshore vessel operations?
- Article 3 (an) (offshore worksite definition): Where do these authorisations need to be delivered and/or who needs to receive them?
- Article 3ga 2. (neighbouring transshipment ports): Did the Commission take into account transshipment activities from ship types other than container ships? Did the Commission consider transhipment activities beyond the container sector, such as oil and gas tankers and ship-to-ship transfer operations?
- Article 3gaa(6 (a)), (SMAP): Will imported sustainable fuels also be eligible to these EUAs, taking into consideration the limited EU production capacity of sustainable fuels within EU? Has the Commission considered introducing a "bunkered in the EU" criteria, to support the development of EU future fuel infrastructure and prevent investment leakage to neighbouring non-EU countries.
- Article 3gaa(6 (b)), could the Commission clarify the scope of the origin requirements for zero emission propulsion technologies? Specifically, do these requirements apply to the entire vessel or only to the relevant propulsion technology and components? Additionally, what qualifies the required link to the EU: the place of production, the vessel's flag, the shipowner, the operator, or other criteria?
- Article 3gaa(6 (a)), : What is to be considered as technologies being manufactured in EU? Does the factory need to be based in EU or does the head office need to be based in EU?
- Article 3gaa(8),: What is to be considered a green shipping corridor? There is no definition to be found? Sometimes a green shipping corridor entails an MoU between two Member States, but more often green shipping corridors are agreements between the private sector and constitutes of an MoU between two ports.
- Article 3gaa(8): could the Commission clarify the scope of "port projects"? Would projects located in ports that serve as export hubs for renewable and low-carbon fuels (green molecules) fall within this definition?

- Article 3gaa(9)(d): Does this include the support to cover electricity costs, or only the propulsion system itself? Could the Commission consider including the electricity cost gap, similar to the support mechanism for sustainable fuels, to further encourage battery-electric propulsion?

- Article 3gaa (10): will shipping companies be allowed to sell or transfer the allowances received under the SMAP mechanism, or must these allowances be used exclusively for their own EU ETS compliance?

- Article 3gaa (11): Can the Commission confirm that the SMAP mechanism will use uniform adjustments when demand for support exceeds availability in a given year, rather than allocating support on the basis of first come first served?

- Art. 3(am) and art. 3(an): Could the Commission clarify the scope of the term "authorization delivered by the competent authority" used to define an offshore worksite? Specifically, which types of permits are intended to be covered? How should activities be treated where no separate spatial or site-specific permit? In addition, which Member State would be considered competent where a single voyage involves activities on the continental shelves of multiple Member States?

- Art. 3gaa(4): Could the Commission confirm that the role of the Member State is purely administrative? How will the uniform reduction provided for in Article 3gaa(11) be applied consistently across Member States?
- Art. 3gaa(8): Can the Commission confirm that the two conditions set out in Article 3gaa(8) are cumulative? On the basis of which parameters will participation in a Green Shipping Corridor be assessed, and how frequently will the list be updated? Furthermore, can the Commission confirm that the derogation provided for in paragraph 7 is attached to the designated third-country port, so that all voyages between that port and any EU port may benefit from it?
- Art. 3gaa(9): Could the Commission clarify point (d), in particular whether support for the "use and operation" of zero-emission propulsion will also cover the operational costs of electricity use? Or is the provision intended to cover only the purchase and use of the propulsion system itself?

Aviation:

- Regarding Article 12.9 ("Aircraft operators that hold an air operator certificate issued by a Member State or are registered in a Member State"): could more clarity be provided, in general, with regard to situations involving wet leases, co-ownership arrangements, etc., in light of the definition of aircraft operator in Article 3(o)?

- SAF may be calculated differently under CORSIA and the EU ETS. Does this not create a potential issue regarding the deductibility of SAF-related emission reductions?

- Art. 12(3) (f): Could it be that the numerator and denominator were inadvertently reversed in this provision? As currently drafted, the outcome appears counterintuitive. If the drafting is intentional, should this be understood as a deliberate form of overcompensation?
- Art. 28a(1) (d): Could the Commission clarify the meaning of the phrase 'for whom in each calendar year from 1 January 2027 to 31 December [2027/the year before the entry into force of this Directive]'? Specifically, are we correct in understanding that aircraft operators whose international emissions remain below 10,000 tonnes of CO_2 are exempt from ETS obligations during that period?

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- Art. 28a(1) (e): Will the Commission publish a list of airports located within 5,000 km of Frankfurt that also meet the threshold of 15,000 tonnes of annual emissions from flights departing from the EEA? Would such a list be updated annually, given that the 15,000-tonne criterion may change over time, or is it intended to be determined once and remain fixed? In addition, could the Commission explain the policy rationale behind the choice of the 5,000 km threshold?

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Building blocks / elements	Comments / questions
PART 1: PROPOSAL	
General comments	Portugal considers that the package provides a broadly positive balance between the achievement of the 2040 climate target, predictability for industry, protection against carbon leakage and support for the decarbonisation of EU ETS sectors**. This assessment reflects Portugal's preliminary reaction and may evolve as the discussions progress and further analysis of the proposals is undertaken**. Portugal therefore considers the proposals a constructive basis for negotiations, without at this stage endorsing all the solutions put forward. The negotiations should preserve the environmental integrity and credibility of the EU ETS, while ensuring compatibility with industrial competitiveness and avoiding an overall weakening of the Package. Regarding the maritime sector, the proposed amendments concern some of the risks identified in connection with the application of the scheme to maritime transport, notably traffic diversion and the diversion of transhipment operations. However, they do not eliminate the risk of activity shifting to third-country ports, with consequences for the competitiveness of Union ports, maritime connectivity and short sea shipping. Therefore, we support the suspension of the application of the EU pending a thorough review of the current framework and its impacts on the competitiveness and connectivity of the European maritime and port sectors. At the same time, we continue to support the development and implementation of an effective global solution for reducing emissions from international shipping within the IMO framework.
Group 1: Overall ambition and funding	
1.A Ambition / CAP (Articles 9, 9b, 9c and 14)	

Building blocks / elements	Comments / questions
Adjustment of LRF	Portugal welcomes the more gradual EU ETS trajectory proposed for 2031-2035, which enhances predictability for industry and supports a balanced transition towards climate neutrality. Nevertheless, the assessment of the overall ambition of the proposed trajectory cannot be dissociated from the parallel discussions on the 2040 climate framewok, including the flexibility provided by international credits and the mitigation efforts under the future revisions of the Effort Sharing and LULUCF Regulations. These elements will jointly determine how the effort required to achieve the 2040 climate target is distributed across the different sectors of the economy and are therefore relevant for assessing the overall balance of the proposed EU ETS trajectory.
International credits	Portugal notes the proposed use of high-integrity international credits under Article 6 of the Paris Agreement as part of the flexibility foreseen for achieving the 2040 target, including through a centralised acquisition mechanism for the share allocated to the EU ETS. Portugal notes that the design of the remaining 3 percentage points of flexibility will be addressed in the remaining elements of the legislative package and therefore falls outside the scope of the present proposal. Nevertheless, Portugal considers it is important to signal already at this stage that sufficient flexibility should be preserved in the design of that remaining share so that Member States can mobilise eligible credits generated by projects in partner countries, including through international cooperation, and thus capitalize investments derived, for example, from innovative mechanism as debt swap.
Removals	Portugal welcomes the creation of predictable demand for permanent carbon removals, in view of their relevance for sectors with residual hard-to-abate emissions and their potential to improve the economic viability of permanent carbon capture and storage projects. Further assessment of the mechanism will nevertheless be important, in particular as regards its impact on the functioning of the EU ETS market.
Other	

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Building blocks / elements	Comments / questions
1.B Free allocation (Articles 10a and 10b) (Article 4 of amending proposal)	
Benchmarks	For the 2026-2030 period, Portugal welcomes the revised heat and fuel benchmark values, which provide a more favourable outcome for industry. Portugal notes that under the proposal, the additional allocation resulting from the revised benchmark values for 2026 would be granted together with the 2027 allocation. Nevertheless, the compensation is forseen for 2027, Portugal considers that the revised heat and fuel benchmark values should already be reflected in the 2026 free allocation. This would minimise the negative impacts on industry and ensure a more equitable application of the rules, particularly where the universe of installations covered by the EU ETS changes between 2026 and 2027. If the initial proposal prevails, we consider that additional provision should be included to avoid the over-allocation for installations that start operation in 2027. Thus, additional efforts should be put in place to accelerate the negotiation of the update BM for 2026-2030. For BM pós - 2030, Portugal also welcomes the more gradual evolution of benchmarks, allowing free allocation to evolve in a manner better aligned with the technological progress achieved across industrial sectors. Regarding the introduction of sector-specific heat and fuel benchmarks, Portugal considers that postponing the sector-specific approach to the post-2030 period may be the most appropriate way forward, taking into account the arguments presented by the Commission and the need not to jeopardise the timely adoption of the benchmark rules for 2026-2030. It is, however, important that the necessary technical work starts early to ensure the effective application of the sector-specific methodology from 2031 onwards. This is specialy important for sectors like Ceramics.
Conditionality	Portugal supports maintaining free allocation as an important element for industrial competitiveness and recognises that linking it to decarbonisation investment can help ensure effective emission reductions. However, the preparation and monitoring of the

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Building blocks / elements	Comments / questions
	new investment plans may create significant additional administrative burdens for operators and competent authorities. In line with the proposal's broader objective of introducing targeted simplifications and reducing administrative burden, Portugal considers that the new requirements should be simple and proportionate, rely as far as possible on information already available, be based on clear criteria and avoid duplication with other plans or reporting obligations already applicable to companies. Their monitoring should likewise be designed in a simple and efficient manner.
Exports/CBAM	Portugal welcomes the slower phase-out of free allocation for CBAM sectors, which is intended to mitigate remaining carbon-leakage risks during the transition. Portugal would nevertheless welcome further clarification on how the revised architecture is expected to address the specific situation of EU production exported to third-country markets. While the CBAM addresses the competitive position of EU production vis-à-vis imported products placed on the Union market, EU producers exporting to third-country markets may continue to face carbon costs that are not necessarily borne to the same extent by their competitors in those markets. The slower phase-out of free allocation provides additional protection during the transition, but it does not appear to differentiate between production placed on the Union market and production exported outside the Union. Portugal would therefore welcome clarification on how export exposure has been taken into account in assessing the adequacy of the revised free-allocation phase-out for CBAM sectors. It would also be useful to understand which indicators or review criteria the Commission intends to use to assess whether material residual carbon-leakage risks persist for exports as free allocation is progressively reduced, and how such findings would be reflected in the future assessment of the carbon-leakage framework.
Other	**Carbon leakage list**: Portugal considers that the extension of the current carbon-leakage list to 2040 should be accompanied by a review of whether the list continues to adequately reflect carbon leakage risks across sectors, taking into account potential new circumstances and sectors

Building blocks / elements	Comments / questions
	that may have become exposed. This is of particular relevance for activities such as plasterboard production. **Indirect carbon cost compensation:** Portugal supports maintaining the possibility to compensate indirect carbon costs for electro-intensive sectors that are effectively exposed to such costs and to carbon-leakage risks. However, the current approach may result in different levels of protection across Member States. Portugal therefore considers that alternative approaches could be explored at Union level with a view to ensuring a fairer and more equitable framework, more comparable competitive conditions between European installations and better consideration of their effective exposure to indirect carbon costs, while preserving appropriate flexibility for Member States.
1.C Funding (Articles 10, 10a (5b), 10cb, 10cc, 10cd, 10ce, 10d, 10da, 10f and 30m, Annex IIb)	
Use of revenues	Portugal supports the use of a significant share of EU ETS auction revenues to support the decarbonisation of sectors covered by the system. However, a mandatory minimum of 50% raises concerns regarding proportionality and budgetary flexibility, as it could significantly constrain Member States' ability to finance other equally relevant climate-policy priorities with substantial financing needs, in particular adaptation and forestry, for which comparable dedicated funding mechanisms are not available. Portugal therefore considers that the mandatory minimum should be set at 30% or lower. The important message to retain for Portugal is that the revenues are 100% used for climate action, but the applications or sectors shall be mainly determined according to national priorities and planning. As far as the maritime sector is concerned, there is a need to confer proper attention by allowing the use of the revenues it generates under the CELE regime.

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Building blocks / elements	Comments / questions
	In addition, Portugal would welcome clarification on the scope of the requirement in Article 10(3), in particular the reference to revenues being used "to support the decarbonisation of ETS sectors, for one or more of the following priority purposes". First, it would be useful to clarify whether the reference to "ETS sectors" also encompasses sectors covered by ETS2, including for the purposes of point (a), which refers to topping up the support mechanisms provided for in the Directive to reduce climate impacts from ETS sectors. Second, Portugal would welcome clarification on whether the requirement to "support the decarbonisation of ETS sectors" means that all the priority purposes listed in the first subparagraph must necessarily be directly linked to ETS sectors. A narrow interpretation could significantly affect the scope of some of those purposes. For example, under point (b), would support for renewable energy only be eligible where the renewable energy concerned directly supports the decarbonisation of ETS sectors? Similarly, under point (f), could the provision be understood as limiting support for modal shift to measures directly associated with transport activities linked to ETS sectors or operators? As regards point (f), Portugal would also welcome clarification on whether the reference to modal shift is intended to exclude support for the electrification of vehicle fleets.
Modernisation Fund	
10% redistribution	
Innovation Fund	
Investment Booster	Portugal notes that, under Article 10cd(1), projects are first pre-selected following open invitations for applications and allowances are subsequently allocated to pre-selected projects in chronological order according to the date and time of submission of the completion bond. While this approach may accelerate the deployment of mature projects, it may also favour projects and operators with greater capacity to complete project preparation and secure the required financing and guarantees rapidly. Portugal therefore

Building blocks / elements	Comments / questions
	considers it important to ensure that the design of the mechanism effectively supports a balanced geographical distribution of funding and does not make access to support disproportionately dependent on the speed of project preparation.
Decarbonisation Bank	As regards the first phase of the Industrial Decarbonisation Bank, Portugal welcomes the solidarity element provided for projects located in Member States with GDP per capita below 75% of the Union average. Under Article 10cc(1), 100 million allowances are reserved for projects in this group of Member States during the first 18 months of operation, after which the reserved amount is reduced to 60 million allowances. While this mechanism can contribute to more balanced geographical access to support, Portugal considers it important to assess whether the duration and design of the initial reservation sufficiently take into account the time needed to prepare mature industrial decarbonisation projects in the beneficiary Member States.
ETS DNSH	
Other	Portugal welcomes the strengthening of EU ETS financing instruments as a means of reducing the risk and cost of industrial decarbonisation investments. At the same time, Portugal considers that the creation or reinforcement of these instruments should not result in an additional reduction of auction revenues directly available to Member States.
1.D MSR (Decision 1814/2015, Article 1, Annex)	
Volume – intake	
Release	
Dynamic adjustment	
Other	
Group 2 – Sectoral matters	

Building blocks / elements	Comments / questions
2.A Aviation (Articles 3, 3c 12, 14, 25a , 28a and 28b, Annex I)	Scrutiny Portugal welcomes clarification on certain technical aspects of the proposal: Q1: regarding the proposed 5.000 km criterion measured from Frankfurt, further clarification is needed on how this threshold would be applied in practice and on the rationale for its use and also the additional threshold of 15.000 tonnes of CO2 annual emissions. Q2: We would appreciate clarification on the entry-into-force dates of the provisions affecting the aviation sector. Q3: We would welcome confirmation of the dates from which the revised support rates for sustainable aviation fuels and the proposed ETS scope exemptions will become applicable. Q4: Regarding the number and diverse specifications and derogations, we would appreciate a schematic graphic on ETS scope for this proposal. Q5 : Please clarify the conditions on how competent authorities may assess whether an aircraft operator exceeds the 10,000 t CO_2 threshold for international flights when part of the operator's emissions may arise from flights between non-EEA third countries, for which reporting is not required under the EU ETS framework?
Corsia: geographical scope – depart flights	
Corsia: implementation for 2026-2035 & deduction mechanism	Portugal supports maintaining the simultaneous application of the EU ETS and CORSIA while CORSIA has not demonstrated that it constitutes a sufficiently robust and credible mechanism applied at a genuinely global scale. However, we note that this mechanism appears particularly complex from both an implementation and compliance perspective, creating potential administrative burdens for aircraft operators and competent authorities, as well as a risk of inconsistencies between the ETS and CORSIA systems. Also, there is a timing mismatch between the CORSIA compliance cycle and the EU ETS surrender deadline of 30 September. Further consideration should therefore be given on how this issue would be addressed in practice.

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Building blocks / elements	Comments / questions
	Q1: Please clarify the conditions under which third-country operators can claim these offsets;. Q2: Please clarify the conditions on how to use ICAO Sectoral Growth Factor (SGF), annually provided in October, and needed to compute the CORSIA offsetting requirements, and the 30 September deadline for the surrender of ETS allowances?
Support mechanisms	Portugal generally supports the proposed changes to the SAF mechanism aimed at establishing a much broader and longer-term aviation decarbonisation support framework. This approach appears consistent with the proposed extension of the scope. However, to ensure the effective functioning and credibility of the mechanism, it is essential that the Union Database (UDB) is operational and provides a robust and reliable system for tracking and verifying the sustainability characteristics of the fuels used. The availability of a transparent and operational EU-wide database will be a key enabler for the implementation of the proposed measures. Also, the traceability from the point of production of the feedstock to the end use seems mandatory. Q1: Will the Union Database provide the information necessary to verify compliance with the new geographical production and feedstock sourcing requirements under Article 3c(6), and from which date will such information be available? Q2: How does it work? How can an Airline, in any airport, make sure that the Fuel uplifted is produced in EEA? Q3: Regarding SAF, how does it work to provide traceability and proper interaction with RefuelEU Aviation and EUDB? Q4: Please clarify how eligibility and traceability requirements will be operationalised for fuels produced in third countries whose emissions trading systems are linked to the EU ETS, notably the United Kingdom and Switzerland?
Inclusion of private & business jets	Portugal does not favor further expansions of the system, given the particular importance of the aviation sector for a peripheral country such as Portugal. For small emitters, based

Building blocks / elements	Comments / questions
	outside the EEA, experience ultimately proves that enforcement is very ineffective due to the inability to engage with them. Regarding definition **(article 3c(6))** and the implementing acts listing business operators, **Q1:** Will the list be prepared based on aircraft type, aircraft registration, or aircraft operators categorized as business operators?
Derogations	Portugal welcomes the extension of the EU ETS derogations applicable to the outermost regions until 2035. The maintenance of these derogations and reinforced support in the outermost regions are important to safeguard their specific connectivity needs. We would also support no reference to a time bound (2035) as the special situation of the outermost regions is permament and not linked to a specific time period.
Other	[Portugal would welcome further clarification regarding the proposed new definition of "aircraft operator". In particular, it is not clear how the proposed changes would affect operators that are already covered by the EU ETS. Furthermore, the coherence of this definition with others regulatory frameworks, such CORSIA and ReFuelEU Aviation would benefit from further discussion, in order to a consistent application of the different aviation frameworks.
2.B Maritime (Articles 3, 3ga, 3gaa, 3gab, 3gg, 9 and 12, Annex I) Separate proposal on Regulations (EU) 2015/757 and (EU) 2023/1805	International shipping operates through global networks in which changes in costs may lead to the reconfiguration of routes, port calls and hubs, with direct effects on the competitiveness and connectivity of Union ports.
Scope of vessels	The extension of the scope to ships between 400 and 5,000 GT should be subject to a careful assessment of its impacts on short sea shipping, regional and island connectivity and modal shift, avoiding disproportionate effects on services exposed to competition from land transport modes
Top-up of allowances mechanism	
Support mechanisms for clean fuels and propulsion	This is an important measure to accelerate the decarbonisation of the maritime sector by helping to address the cost gap and facilitate the uptake of cleaner solutions. It also represents a positive alignment with the approach already established in aviation. A

Building blocks / elements	Comments / questions
	similar approach in maritime transport can provide an effective incentive for investment and contribute significantly to the sector's transition towards climate neutrality
Evasion	Portugal welcomes the strengthened measures to prevent carbon leakage risks and safeguard the competitiveness of EU ports. Portugal is still assessing the overall set of measures to address the risk of route evasion and its potential impacts on the competitiveness of Union ports. The proposed measures to limit circumvention, notably by lowering the transhipment threshold from 65 % to 50 % and by allowing neighbouring third-country ports to be identified, do not remove the risk of network reconfiguration. This risk is not limited to the use of port calls intended to reduce exposure to the EU ETS. It also includes the diversion of traffic and transhipment operations to third-country ports, changes in the location of hubs and in the distribution of transhipment flows, well as decisions on network configuration and investment which, once taken, may be difficult to reverse. These changes may also affect the direct connectivity of Union ports and encourage a shift of traffic from short sea shipping to land transport modesas
Derogations	Portugal welcomes the extension until 2035 of the maritime derogations applicable to the outermost regions, given the specific circumstances and connectivity needs of these territories. We would also support no reference to a time bound (2035) as the special situation of the outermost regions is permament and not linked to a specific time period.
IMO alignment	In the context of future IMO action under the 2023 IMO Net-Zero Framework, Portugal welcomes the proposal for enhanced alignment of the EU ETS with future IMO measures. The global solution should ensure comparable conditions of competition and prevent the costs associated with reducing emissions from leading to the diversion of traffic or activity to regions subject to less burdensome requirements.
MRV / Fuel EU	Portugal welcomes the integration of monitoring plans, reports, timelines and verification procedures across the relevant maritime regimes, as an effective simplification that can reduce costs and administrative duplication.

Building blocks / elements	Comments / questions
	Member States should retain the flexibility to determine the most appropriate institutional arrangements for the implementation of these regimes, as this would better reflect national legal frameworks, governance structures and technical expertise, while still allowing and ensuring an effective coordination and information exchange.
Other	
2.C Inclusion of waste (Articles 3, 12a, 12b and 30, Annex I)	
Inclusion of waste	
Scope	
Volume	
Phase-in	Scrutiny. Portugal welcomes the gradual introduction of surrender obligations for waste incineration and co-incineration and the temporary flexibility provided for installations located in the outermost regions. Nevertheless, given the potential implications of the extension of the EU ETS to the waste sector and the expected impacts in consumers, Portugal has still a scrutiny reserve in relation to this topic.
Opt-out	Scrutiny. Portugal would welcome further clarification on the eligibility assessment for the temporary national opt-out under Article 12b(1). The provision requires a Member State to demonstrate, by the notification deadline of 31 July 2029, that at least two of the three conditions provided for are met, including conditions relating to whether the Member State has the relevant policies in place and is “on track” to achieve the applicable municipal waste recycling and landfilling targets. In order to allow Member States to assess the practical availability of this flexibility sufficiently in advance, Portugal would welcome clarification on how the Commission

Building blocks / elements	Comments / questions
	intends to determine whether a Member State is considered to be "on track". In particular, it would be useful to clarify the reference data and period to be considered, the role of national projections and of policy measures already adopted or planned, and how progress towards the relevant targets will be assessed for this purpose. It would also be useful to clarify whether and how continued compliance with the qualifying conditions will be assessed during the period in which the opt-out applies, following the initial assessment associated with the 2029 notification. Regarding the carbon-tax condition in Article 12b(1)(a), further clarification would also be useful on how the requirement that the national carbon tax effectively paid be higher than the average EU ETS auction clearing price, adjusted for the gradual phase-in under Article 12a, is intended to operate in practice, in particular in 2031, 2032 and 2033 when the surrender obligation is itself being progressively introduced. Beyond the eligibility criteria, a separate question arises as regards the practical operation of the opt-out once a Member State makes use of this flexibility, particularly during the gradual phase-in of surrender obligations. Under Article 12a, installations are required to surrender allowances corresponding to 25%, 50% and 75% of their verified emissions in 2031, 2032 and 2033 respectively. Article 12b(2), however, appears to require a Member State making use of the opt-out to cancel allowances corresponding to the full verified emissions of the installations concerned for each reference year. Portugal would therefore welcome confirmation that this difference is intentional and further clarification on the rationale for requiring cancellation based on full verified emissions during the phase-in period, rather than on the surrender obligation that would otherwise apply to the installations concerned. Finally, regarding the separate exemption provided for installations located in the outermost regions under the second paragraph of Article 12a, this provision exempts those installations from the surrender obligation until 31 December 2035 but does not appear to provide for a corresponding cancellation of allowances by the Member State.

Building blocks / elements	Comments / questions
	Portugal would therefore welcome confirmation that the cancellation mechanism established in Article 12b(2) does not apply to this specific outermost-regions exemption and that no equivalent adjustment to the Member State's auction volume is foreseen.
Review/Other	Scrutiny Portugal notes that the proposal recognises the need to avoid unintended diversion of waste contrary to the waste hierarchy and provides for a review by 2034 taking into account relevant developments in waste diversion. Given that surrender obligations for waste incineration will start to apply gradually from 2031, Portugal would welcome clarification on how the framework would operate if, during the phase-in period, sufficiently robust evidence emerged that the introduction of the EU ETS was contributing to a material diversion of waste towards landfill or otherwise producing effects contrary to the waste hierarchy. In particular, Portugal would welcome clarification on whether the Commission could bring forward the assessment foreseen for 2034 if significant unintended effects were identified at an earlier stage, and what type of evidence or information Member States would be expected to provide in order to substantiate such an earlier assessment**.**
2.D Other (Articles 2, 3, 4, 6, 6a, 12, 19, 20, 21, 23 and 25b, Annex I, IV, V) (Articles 3 and 5 of amending directive)	
CSU-S	Non-permanent CCU: Portugal recognises that the proposed approach may support the development of new value chains and create opportunities for EU ETS industry. However, it will require robust traceability throughout the carbon value chain and clear identification of the entity responsible for the emissions, adding significant complexity to the implementation of the system. Portugal also has concerns regarding the incentives that this approach may create, in particular the risk of favouring the continued use of fossil carbon at the expense of investments delivering effective emission reductions. Appropriate safeguards may therefore be necessary, namely the confirmation that investments is emissions reductions are in place in the installations were the carbon is

Building blocks / elements	Comments / questions
	being captured, and further assessment is needed before Portugal can take a definitive position on this approach. Against this background, Portugal notes that the impact assessment acknowledges a risk of under-accounting where the embedded fossil carbon is ultimately released outside the scope of the EU ETS. Portugal would therefore welcome clarification on the safeguards envisaged to ensure that such carbon remains effectively accounted for, including how applications presenting a material risk of under-accounting will be identified and treated. Given the potential complexity of following carbon through different value chains, Portugal considers that such safeguards should rely on clear and harmonised rules that can be effectively implemented by operators and competent authorities, avoiding, as far as possible**,** complex case-by-case monitoring of individual product chains. As regards synthetic fuels, Portugal would welcome clarification on how the new EU ETS obligation for distributors is expected to interact with existing monitoring and reporting obligations, in particular where the same operators are also regulated under ETS2. Given the potential overlap between the two frameworks, Portugal considers it is important that the implementing arrangements avoid unnecessary duplication and additional administrative burden, while ensuring clear and consistent accounting of the fossil carbon subject to the EU ETS.
Installations less than 20MW	Could the Commission clarify the specific issue that the proposed possibility for installations falling below the 20 MW threshold as a result of decarbonisation is intended to address. In particular what is the rationale for allowing to remain in the EU ETS for up to two subsequent five-year allocation periods?
ETS as a service	
Registry funding	Following previous discussions on this issue, Portugal welcomes the proposal included in the revision of the Directive. We consider the revision of the Directive provides the appropriate framework for addressing this matter and that the proposed approach

Building blocks / elements	Comments / questions
	represents the most suitable way forward, taking into account the options previously considered.
Other	Biogenic emissions threshold: Portugal would welcome consideration of whether the exclusion applicable to installations whose biogenic emissions represent more than 95% of their total emissions could operate on a voluntary basis, allowing such installations to opt to remain within the EU ETS, potentially without entitlement to free allocation. This issue has been raised by national operators and Portugal would welcome clarification on whether there is scope for a compromise solution in this regard.
PART 2: IMPACT ASSESSMENT	
General comments	
Specific topics (Note: below references are made to the specific Annexes set out in part 3 and 4 of the impact assessment. Those issues are also dealt with in the general parts (1 and 2)).	
Cap (including international carbon credits) (Annex 8, part (I)	
Removals (Annex 8, part (II))	
Market Stability Reserve (Annex 8, part (III))	
Industrial Decarbonisation Bank (Annex 9)	
Aviation (Annex 10)	
Maritime (Annex 11)	

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Building blocks / elements	Comments / questions
Carbon leakage (Annex 12, part 1)	In maritime transport, carbon leakage may occur when traffic or transhipment operations are diverted to third-country ports. The risk is particularly relevant for transhipment, given the mobility of these operations and their weaker links to the port's hinterland. In such cases, part of the emissions may fall outside the scope of the EU ETS without any actual reduction in emissions at global level. The relocation of activity outside the Union does not, in itself, constitute decarbonisation and affects competition between ports
20 MW threshold (Annex 12, part 2)	
Waste (Annex 13, part 3)	
Non-permanent Carbon Capture and Utilisation (CCU) (Annex 13, part 4)	
Linking (Annex 14)	
Other	